

After a dump truck unloaded gravel at a road construction job site, the trucker negligently drove away with the truck bed still in a raised position. The raised truck bed hit an overhead cable, causing it to fall across the highway.

The telephone company that owned the fallen cable sent one of its employees to the scene in a company vehicle. The employee's responsibilities were expressly limited to responding to cable-damage calls, assessing damage, and reporting back to the telephone company so that a repair unit could be dispatched.

The foreman of the road construction job site asked the telephone company employee if the foreman's crew could lift the cable off the highway. Fearful that the cable might be damaged by traffic, the telephone company employee said, "Go ahead, pick it up. Just don't damage the cable." The foreman then directed his crew to stretch the cable over the highway so that traffic could pass underneath.

Shortly thereafter, a bus passing under the telephone cable hit the cable and dislodged it, causing the cable to strike an oncoming car. The driver lost control of the car and hit a truck carrying asphalt to the road construction site. As a result of the collision, hot asphalt spilled and severely burned the foreman.

The foreman is now threatening to sue the telephone company on the ground that it is responsible for its employee's negligence in authorizing the road construction crew to stretch the cable across the highway. The telephone company argues that, even assuming that its employee was negligent, the telephone company is not liable because:

1. the telephone company employee's acts were outside the scope of his employment and thus cannot be attributed to the telephone company;
2. there is no other agency theory under which the foreman could hold the telephone company liable for its employee's acts; and
3. the telephone company employee's acts were not the proximate cause of the foreman's injuries.

Assess each of the telephone company's responses.

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Question Presented

A trucker negligently drove off with the bed raised, dropping the phone company's cable across the highway.

← the setup: a downed cable that must be dealt with

The company sent an employee to the scene whose duties were expressly limited to assessing damage and reporting back.

← a narrow job description (the scope question)

It sent him in a company vehicle, as its representative at the scene.

← a manifestation by the principal → apparent authority

Asked if the crew could lift the cable, the employee said, 'Go ahead, pick it up. Just don't damage the cable.' The crew stretched it across the highway.

← authorizing the crew served the employer's interest → within scope

A bus hit the cable, which struck a car, which hit an asphalt truck, and spilled hot asphalt burned the foreman.

← a foreseeable chain of intervening acts → proximate cause not broken

1. Were the employee's acts outside the scope of employment?

← → respondeat superior

2. Is there any other agency theory of liability?

← → apparent authority

3. Were the acts not the proximate cause of the injuries?

← → proximate cause / intervening acts

Argument 1: Respondeat Superior (Scope of Employment)

Issue. Whether the employee was acting within the scope of his employment when he authorized the crew to move the cable.

Vicarious liability starts here.

Rule. G/R: under respondeat superior a principal is liable for an employee's torts committed within the scope of employment. Conduct is within scope when it is of the kind the employee is hired to perform, occurs within the authorized time and space, and is motivated at least in part to serve the employer. An act is outside scope only when it is an independent course of conduct not intended to serve the employer.

Kind of work + time/space + intent to serve.

Analysis. Here, the employee's duties were expressly limited to assessing damage and reporting, but he was at the scene during

The narrow description does not shrink scope when the act serves the employer.

work and authorized moving the cable to protect it from traffic damage, an act motivated to serve the employer. A narrow job description does not put that outside scope.

Conclusion. Therefore, the employee acted within the scope of employment and the company is liable; the first argument fails.

Company liable via respondeat superior.

Argument 2: Apparent Authority

Issue. Whether the company is liable on an apparent-authority theory even if the act was outside actual scope.

Any other agency route?

Rule. G/R: a principal is bound by acts done with apparent authority, which arises from the principal's manifestations to a third party that lead the third party reasonably to believe the agent is authorized.

Apparent authority = manifestations to the third party + reasonable belief.

Analysis. Here, the company sent the employee to the scene in a company vehicle as its representative, a manifestation that reasonably led the foreman to believe the employee had authority to decide how to handle the company's cable.

Company car + on-scene rep → the foreman reasonably relied.

Conclusion. Therefore, the company is also liable on apparent authority, and the second argument fails.

Liable on apparent authority too.

Argument 3: Proximate Cause

Issue. Whether the employee's negligence was a proximate cause of the foreman's injuries despite the intervening events.

Did the chain break?

Rule. G/R: proximate cause requires that the harm be a foreseeable result of the negligence. An intervening cause breaks the chain only if it is a superseding, unforeseeable force; foreseeable intervening acts do not.

Foreseeable intervening acts do not cut off liability.

Analysis. Here, stringing the cable across a live highway made it foreseeable that a passing vehicle would dislodge it and set off a collision; the bus, car, and asphalt truck were foreseeable links in that chain, not superseding forces, and the foreman was a foreseeable victim.

The pileup is the kind of harm the negligence risked.

Conclusion. Therefore, the employee's negligence was a proximate cause, and the third argument fails.

Proximate cause satisfied.

Step-by-Step: Vicarious Liability + Proximate Cause

Try actual scope first, then apparent authority as a backup, then confirm the chain of causation held.

1. Scope of employment? Kind of work + time and space + motivated to serve the employer.

→ Authorizing the crew to protect the cable serves the employer → within scope. **company liable**



2. If not, apparent authority? A principal's manifestation leading a third party to a reasonable belief.

→ Company vehicle + on-scene representative → yes. **liable on apparent authority**



3. Proximate cause? Foreseeable result; intervening acts break the chain only if superseding.

→ Foreseeable pileup from a cable strung over a highway → not superseding. **proximate cause holds**